REMARKS

This responds to the Office Action mailed on July 3, 2006, and the references cited therewith.

Claim 34 was amended, no claims are canceled, and no claims are added; as a result, claims 16-39 are now pending in this application.

§103 Rejection of the Claims

Claims 16-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Padgett et al. (U.S. 6,167,518, hereinafter "Padgett") in view of Ross (U.S. 6,195,447, hereinafter "Ross") and in further view of Beetcher et al. (U.S. 5,933,497, hereinafter "Beetcher") and further in view of Cane et al. (U.S. 5,416,840, hereinafter "Cane").

Applicants respectfully submit that the Office Action did not make out a *prima facie* case of obviousness, because even if combined, the cited references fail to teach or suggest all of the claim limitations of the independent claims of the present Application.

> To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Claim 16 includes the following limitation:

> "receiving at least one response from the user computer, the at least one response including a first fingerprint file and a first identification for the user, said first fingerprint file -including at least one identifying characteristic of the user computer" (Emphasis Added)

The Office Action contends that the above limitation is taught/suggested by the Cane. Cane is directed at a method and system for protecting computer program distribution within a broadcast medium involving encrypting a portion of the computer program Si using an encryption scheme keyed to both an encryption key SKi and a program identifier i. (Abstract) Cane specifically discloses:

> "The method involves encrypting at least a portion of the computer program Si using an encryption scheme keyed to both an encryption key SKi and a program identifier i. . . . Two tables

are generated and stored in a memory device: a first table, including correlations between the encryption key SKi and the program identifier i; and a second table, including correlations between a password key PKj and the hardware identifier j. . . . The user-transmitted program identifier i is used to access the software encryption key SKi from the first table, and the user-transmitted hardware identifier j is used to access the password key PKj from the second table. A password Pij is generated based on both the encryption key SKi and the password key PKj. The password Pij is transmitted to the user for subsequent use in decrypting the selected software program Si contained on the medium." (Col.2, lines 20-55)

In the method disclosed by Cane, the encryption scheme uses two inputs transmitted by the user, the first being a "program identifier i", and the second "the user hardware identifier j"; thus there is no mention of a *"first identification for the user"* as recited in claim 16, being received in a response from the user computer. As such, Cane fails to teach or suggest *"receiving at least one response from the user computer, the at least one response including a first fingerprint file and a first identification for the user, said first fingerprint file -including at least one identifying characteristic of the user computer"*, as recited in claim 16.

With respect to other cited art, Applicant submits that the claimed *"receiving at least one response from the user computer, the at least one response including a first fingerprint file and a first identification for the user,"* the claimed *"comparing the first fingerprint file against a second fingerprint file, to verify the user computer,"* and the claimed *"sending at least one verification response, based upon the comparing of the first fingerprint file against the second fingerprint file and upon the comparing of the first identification for the user against the second identification for the user"* are not taught or suggested by the combination of Padgett, Ross and Beetcher. For a more detailed discussion of this, see Applicant's Amendment and Response mailed April 13, 2005 at Pages 8-9. As such, Applicant respectfully submits that limitations in claim 16 are not taught or suggested by the combination of Padgett, Ross, Beetcher, and Cane. Furthermore, there is no teaching or suggestion to combine the cited references. For a more detailed discussion of this, see Applicant's Amendment and Response mailed April 13, 2005 at Pages 11 and 12. Therefore, at least for the reasons set forth above, independent claim 16 is not rendered obvious by the cited references and it is allowable.

In addition, claims 17-33 each depend directly or indirectly on independent claim 16. As such, they each include the claim elements discussed above. For at least the reasons noted above, Applicant respectfully submits that the combination of Padgett, Ross, Beetcher, and Cane does

not teach or suggest all the elements of dependent claims 17-33 and there is no teaching or suggestion to combine the cited references (see Applicant's Amendment and Response mailed April 13, 2005 at Pages 11 and 12). Therefore, independent claims 17-33 are not rendered obvious by the cited references and their rejection under 35 U.S.C. § 103(a) should be withdrawn.

With respect to claim 34, As discussed above vis-à-vis claim 16, Cane does not teach or suggest the claimed "*processor for communicating with the storage unit and the memory unit to compare information indicative of the second fingerprint file and the* second identification for the user *with information indicative of the first fingerprint file and first identification for the user,*".

Additionally, the above quote and the claimed "*storage unit to store information received from a user computer, the information including a second fingerprint file and a second identification for a user,*" the claimed first and second fingerprint files, where each fingerprint file includes at least one identifying characteristic of a user computer, and the claimed "*memory unit to receive information indicative of a first fingerprint file and a first identification for the user*" are not taught or suggested by the combination of Padgett, Ross and Beetcher. For a more detailed discussion of this, see Applicant's Amendment and Response mailed April 13, 2005 at Pages 10 and 11. Furthermore, there is no teaching or suggestion to combine the cited references (see Applicant's Amendment and Response mailed April 13, 2005 at Pages 11 and 12). Therefore, Applicant submits that at least for the reasons set forth above, independent claim 34 is not rendered obvious by the cited references and it is allowable.

Claims 35-39 each depend directly or indirectly on independent claims 34. As such, they each include the same limitations discussed above vis-à-vis claim 34. For at least the reasons noted above, the combination of Padgett, Ross, Beetcher, and Cane does not teach or suggest all the elements of dependent claims 35-39. For a more detailed discussion with respect to Padgett, Ross, and Beetcher, see Applicant's Amendment and Response mailed April 13, 2005 at Page 11. Furthermore, there is no suggestion to combine the cited references (see Applicant's Amendment and Response mailed April 13, 2005 at Pages 11 and 12). Therefore, Applicant respectfully

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submits that at least for the reasons set forth above, dependent claims 35-39 are allowable and their rejections under 35 U.S.C. § 103(a) should be withdrawn.

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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 408-278-4042 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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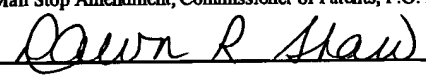Minneapolis, MN 55402
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Date ___12/18/2006___   By _____
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